



An
Bord
Pleanála

Inspector's Report

ABP-312514-22.

Development	Construction of a dwelling house, garage, waste water treatment system and associated site works.
Location	Brownstown, Monasterboice, Co. Louth.
Planning Authority	Louth County Council.
Planning Authority Reg. Ref.	211354.
Applicant	Stephen Winters.
Type of Application	Planning Permission.
Planning Authority Decision	Refusal.
Type of Appeal	First Party.
Appellant	Stephen Winters.
Observer(s)	None.
Date of Site Inspection	16 th day of April, 2022.
Inspector	P.M. Young

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	6
3.3. Prescribed Bodies	7
3.4. Third Party Observations	7
4.0 Planning History.....	8
5.0 Policy & Context	8
5.1. Development Plan.....	8
5.4. Natural Heritage Designations	10
6.0 The Appeal	11
6.1. Grounds of Appeal	11
6.2. Planning Authority Response	13
6.3. Observations	14
7.0 Assessment.....	14
8.0 Recommendation.....	22
9.0 Reasons and Considerations.....	23

1.0 Site Location and Description

- 1.1. The irregular shaped appeal site has a stated site area of 0.433ha and it is located in the townland of 'Brownstown', in County Louth. The site is located c650m to the north of the L-6303-2 Class 2 Local Road from its junction with the R132 and from this junction by road it is c2.5km to Junction 11 of the M1 Motorway. The site forms part of a rural area with a strong proliferation of one-off dwellings. It is situated within 40minutes commuting distance to Dublin and there are a number of settlements within its immediate and wider vicinity including Monasterboice which lies c3.7km to the north west; Tullyallen which lies c3.8km to the south west; Drogheda which lies c5.8km to the south; Collon which lies c6.7km to the west; and, Termonfeckin which lies c7.6km to the east, all as the bird would fly to these settlements centres.
- 1.2. The site forms part of a larger agricultural field with its eastern boundary aligning with the L-6302-0. The L-6302-0 roadside boundary associated with this site does not include any existing entrance, but this field does include an entrance at its most northern point which lies outside of the redline area of the site.
- 1.3. According to the planning history of this field the subject appeal site overlaps with a concurrent proposal that is before the Board by way of a First Party Appeal case ABP-312513-22 (P.A. Ref. No. 211353). This concurrent appeal also relates to a one-off rural dwelling with the main area associated with this application located to the rear of the site subject to this appeal and is situated c87m back from the existing roadside edge. The L-shape site associated with ABP-312513-22 effectively wraps around the main northern and western boundaries of this subject site and excludes a linear strip of land ranging between circa 18 to 20m in width that encompasses the remaining area of the agricultural field to which this application relates.
- 1.4. The main roadside boundary consists of a mature but low hedgerow with a grass verge running between it and the roadside carriage. A rolling drumlin landscape characterises this rural area.

2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a 2-storey 3-bedroom dwelling house (Note: 244.8m²) domestic garage (Note: 42m²), proprietary waste water treatment system and all associated site works.
- 2.2. According to the drawings accompanying this planning application the proposed dwelling would be served by a shared entrance onto the local road on its north easternmost corner. The proposed detached dwelling would be setback c45m and the proposed detached garage would be setback c46m from the local road, respectively.
- 2.3. The proposed detached garage would have a finished floor level of 142 whereas the proposed detached dwelling would have a slightly more raised finished floor level of 142.22. The proposed detached dwelling would mainly consist of a two-storey element addressing the road with this having a maximum stated ridge height of 8.45m and the single storey element to the rear having a maximum ridge height of 4.75m. The rear elevation of the dwelling includes a balcony feature with double doors opening onto it and serving the 'Master Bedroom'. The width of the two-storey element is 13.9m and the dwelling has a depth of 16.4m at its northern elevation. The proposed detached garage has a stated maximum ridge height of 5m.
- 2.4. Proposed new boundary treatments to define the northern and western boundaries of the site consist of hedgerow planted of native species. Tree planting is also proposed along these boundaries. It is proposed to provide a new setback roadside boundary with the area between the carriage and the new roadside boundary to be stoned.
- 2.5. In addition, the drawings show a soil polishing filter bed and waste water treatment plant positioned in the setback area between the principal façade and the roadside boundary. A bored well positioned in close proximity to the detached garage and the rear northern boundary of the site is also proposed.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 15th day of December, 2021, the Planning Authority decided to **refuse** planning permission for the proposed development subject to the following stated three reasons:

- “1. The site of the proposed development is located within Rural Policy Zone 1 of the Louth County Development Plan 2021-2027 where it is the policy of the Plan that applicants demonstrate compliance with one of the qualifying criteria outlined within Table 3.4 of the Plan. Based on the documentary evidence submitted the applicant has failed to clearly demonstrate that they fulfil the qualifying criteria for Rural Policy Zone 1. As such, the proposed development would contravene rural housing policy objective HOU 41 of the Louth County Development Plan 2021-2027 would be contrary to the proper planning and sustainable development of this area.*
- 2. The proposed site, by reason of its location in an area under significant pressure for one-off rural housing, evident by the excessive density and inappropriate pattern of one-off dwellings in the vicinity, would constitute an inappropriate and form of ribbon and piecemeal development and would result in the rural character of this scenic landscape being further eroded, would militate against the preservation of the rural environment and would set an undesirable precedent for other similar inappropriate development in the vicinity. The development would, therefore, be contrary to section 13.9.4 of the Development Plan ‘Site Selection’ which requires applications to consider the existing number of one off dwellings in the area and the ability of the landscape to absorb further development of one off dwellings without further eroding the rural character of the area; Policy HOU 42 of the Louth County Development Plan 2021-2027 which seeks to manage development of rural housing the open countryside by requiring any new dwelling to be ‘appropriately designed and located so it integrates into the local landscape and does not negatively impact or erode the rural character of the area in which it would be located’, and Policy Objective HOU 47 which requires applications for one-off rural housing to*

comply with the standards and criteria set out in Section 13.9 of Chapter 13 ‘Development Management Guidelines’, namely Section 13.9.5 of the Development Plan relating to ‘Ribbon Development’. Such development would be contrary to the proper planning and sustainable development of this area.

3. *The applicant has failed to demonstrate that the ground conditions are adequately suitable to accommodate the required secondary waste water treatment system and polishing filter or compliance with the EPA Code of Practice 2021. Accordingly, in its current form, the proposed development is contrary to Policy Objective IU18 of the Louth County Development Plan 2021-2027. The proposed development would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of this area.”*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer’s report dated the 14th day of December, 2021, is the basis of the Planning Authority’s decision. It included the following comments:

- Since this application was submitted that a new Development Plan has come into effect.
- The applicant is not the son of a qualifying landowner and is instead purchasing the site from the landowner. They do not qualify for a dwelling house under Criteria 1 or otherwise. As such the proposed development, if permitted would contravene the housing policy objective HOU 41 of the Development Plan.
- The finished floor ground levels are 1m or higher above the ground levels of the public road.
- There is an excessive number of dwellings in this immediate area and an excessive number of waste water treatment systems.
- When taken with the proposed dwelling to the rear it is considered that the proposed development would represent overdevelopment of one-off dwellings in this un-serviced area.

- There are five existing dwellings within 250m to the south of the site and 3 to the north including a dwelling under construction. The proposed development would exacerbate ribbon development along this public road and would result in an intrusive encroachment of physical development in the open rural landscape.
- Design of the dwelling is generally acceptable.
- No adverse residential amenity impacts would arise to properties in the vicinity including the neighbouring dwelling to the south.
- The site is not identified as being in an area at flooding risk.
- Having regard to the high vulnerability of the soil at this location a reason for refusal should be added, on the basis that the applicant has failed to demonstrate that the site can cater for a waste water treatment system and polishing filter.
- Surface water drainage design is satisfactory.
- Development Contributions are applicable.
- No EIA or AA issues arise.
- Concludes with a recommendation of refusal.

3.2.2. **Other Technical Reports**

Infrastructure: No objection, subject to inclusion of recommended conditions.

Environment: Additional Information Sought.

3.3. **Prescribed Bodies**

3.3.1. None.

3.4. **Third Party Observations**

3.4.1. One Third Party Observation was received during the course of the Planning Authority's determination of this application. This raised concerns that the applicant had not demonstrated local needs; that the proposal did not conform with the pattern of development in the area including it did not conform with the established building line; and, concern is raised that the boundary leaves a strip of 15m to the north of its for future potential similar development.

4.0 Planning History

4.1. Site – Recent & Relevant

4.1.1. None.

4.2. Setting – Recent & Relevant

4.2.1. **ABP-312513-22 (P.A. Ref. No. 211353):** Concurrently by way of a First Party Appeal to the Board is the decision of the Planning Authority to refuse planning permission for a rural one off-dwelling house, garage, waste water treatment system and shared entrance onto the public road. This proposal would share the same new modified entrance onto the public road as also sought under this application and the driveway serving this dwelling would run along the yet undefined northern boundary of the subject site with the main site area associated with this concurrent appeal site located to the rear on which a detached dwelling house, detached garage and waste water treatment is proposed.

5.0 Policy & Context

5.1. Development Plan

5.1.1. The Louth County Development Plan, 2021-2027, came into effect on the 11th day of November, 2021. Under Map 3.1 of the said plan the site is located in a rural area under urban influence (Rural Category 1) and under Map 3.2 the site is located within Rural Policy Zone 1 land, i.e., an area under strong urban influence and of significant landscape value. Applicants for one-off dwellings in Rural Policy Zone 1 are required to meet the qualifying criteria set out in Table 3.4 of the said Plan. In addition, under Map 3.1 the site forms part of a rural area identified as under urban influence.

5.1.2. Section 13.9 of the Development Plan deals with the matter of housing in the open countryside. With Section 13.9.1 setting out that countryside is a valuable resource that provides a scenic landscape enjoyed by residents and visitors, and farmland that delivers high quality produce. It also sets out that *“whilst this Plan acknowledges the desire of local residents to live in the rural area, the provision of one-off housing in the open countryside must be carefully managed in order to protect the landscape and countryside for future generations to work in and enjoy”*.

- 5.1.3. Section 13.9.10 of the Development Plan deals with Garages and Outbuildings in the Countryside. It sets out that: *“garage will normally be positioned to side or rear of the dwelling and will be designed and finished in materials that match the dwelling. The design and scale of any garage shall be proportionate to the dwelling”*.
- 5.1.4. Section 13.9.5 of the Development Plan deals with the matter of ribbon development.
- 5.1.5. Section 13.9.19 of the Development Plan states: *“applicants for one-off rural housing will be required to demonstrate compliance with the criteria relevant to the specific Rural Policy Zone in which the application site is to be located. The qualifying criteria for each policy zone is outlined in Section 3.17.4 of Chapter 3 ‘Housing’”*.
- 5.1.6. Section 13.20.3 of the Development Plan deals with domestic wastewater treatment systems and states that: *“domestic wastewater treatment plants and percolation areas must comply with the Code of Practice Domestic Waste Water Treatment Systems (Population Equivalent ≤10) (EPA, 2021) or any subsequent updated guidance”*.
- 5.1.7. Section 13.16.17 of the Development Plan deals with Entrances and Sightlines. It states that: *“a well-designed access is important for safety and convenience of all road users”*.
- 5.1.8. Section 13.16.17 of the Development Plan deals with the matter of entrances and sightlines.
- 5.1.9. Table 13.13 of the Development Plan sets out the requirements for entrances onto various categories of roads and for local roads requires a sightline of 75m from a 3m setback from the edge of the carriageway.
- 5.1.10. Section 13.19 of the Development Plan deals with the matter of Heritage.

5.2. **Regional Spatial Economic Strategy – Eastern & Midland Region, 2019-2031.**

- 5.2.1. RPO 4.80 sets out that Local Authorities shall manage urban growth in rural areas under strong urban influence by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstratable economic or social need to live in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.3. **National**

- 5.3.1. **National Planning Framework – Project Ireland 2040, Department of Housing, Planning and Local Government, (2018):** Of relevance to this appeal case is National Policy Objective 19. This national policy objective refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence i.e., commute catchment of cities and large towns and centres of employment. This will be subject to siting and design considerations. In all cases the protection of ground and surface water quality shall remain the overriding priority and proposals must definitely demonstrate that the proposed development will not have an adverse impact on water quality and requirements set out in EU and national legislation and guidance documents.
- 5.3.2. **Sustainable Rural Housing Guidelines, (2005):** The overarching aim of the Guidelines is to ensure that people who are part of rural community should be facilitated by the planning system in all rural areas, including those under strong urban based pressures. To ensure that the needs of rural communities are identified in the development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated. Of relevance to this appeal case is that the site is located in an area classified as an under **Strong Urban Pressure**. Section 3.3.3 of these guidelines deals with ‘Siting and Design’.
- 5.3.3. **Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent \leq 10), 2021.**
- 5.3.4. The **Development Management Guidelines for Planning Authorities**, June, 2007.

5.4. **Natural Heritage Designations**

- 5.4.1. None within the zone of influence of the project sought under this application with the nearest Natura 2000 site is the River Boyne & River Blackwater SAC (Site Code: 002299) which is located c3.7km to the south west at its nearest point.

5.5. **EIA Screening**

- 5.5.1. The proposed development is of a class but substantially under the threshold of 500 units to trigger the requirement for submission of an EIAR and carrying out of EIA. Having regard to nature, scale, and extent of the proposed development, which essentially consists of the construction of a dwelling, garage, driveway/shared access

onto the public road, wastewater treatment system and associated site works of significant effects on the environment arising from the proposed development. There are no features of ecological importance nor does the site have any hydrological connectivity to any Natura 2000 site.

5.5.2. Based on these considerations, the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

5.6. Built Heritage

5.6.1. The site is located c476m to the south west of the following Recorded Monuments:

- LH01729 (Classification 'SOUT').
- LH01728 (Classification; 'BUGR').

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The First Party's grounds of appeal submission can be summarised as follows:

- The appellant is a native of the parish of Monasterboice and was raised as well as resides approximately 1.9km from the application site.
- The appellant's family are long established members of the local farming community, with four generations of immediate family living and farming land in the immediate vicinity of the proposed site.
- The appellant wishes to build a home and raise his family in the community where he has grown up, attended school and now works from, like generations of his immediate family.
- There is a long history of residential settlement in this area and the site is accessed off what was historically a main thoroughfare known as the Old Mail Coach Road from Dundalk to Drogheda.
- There is a recent history of other local people being granted permission for family homes in this area including immediately surrounding the application site.

- There are no housing developments in this area so there is no opportunity for the appellant to purchase a house. Even if he could the current house prices are inflated, and second-hand homes rarely come onto the market as well as are sold at a premium out of reach of the first-time buyer.
- The appellant's father and a number of his family members are skilled trades persons in the building industry. This affords the appellant the ability and opportunity to build his family home at an affordable price.
- Reference is made to the local planning provisions, and it is contended that the appellant qualifies for a dwelling under Qualifying Criteria Number 2 under the previous Development Plan. This application was lodged on the 8th day of November, 2021, and the new Development Plan on the 11th day of November, 2021. It is therefore argued that as the application was submitted prior to the Louth County Development Plan, 2021-2027, came into force that the proposal was compliant with the Development Plan on the date of its submission.
- There is a pattern of one-off rural dwellings in the vicinity of the proposed site. This has developed over time and has been added to by recent grants of permission including under P.A. Ref. No. 02/1403 almost opposite the site entrance. It is contended that since 2019 five dwellings have been permitted with these deemed to be in compliance with the Development Plan. The pattern and density of development in this area is a direct result of the local planning policy as well as has been reinforced by local planning policy since the 1970s.
- It is unfair to single out the applicant who is a long-standing resident of the area with a rural housing need.
- The design of the dwelling house is an appropriately designed one that is in keeping with the design patterns already permitted and constructed in the immediate vicinity.
- Comprehensive landscaping is proposed to mitigate visual impact of the proposed development.
- The Planning Officer's report fail to clarify what the ground risk concerns are. It is not unusual for further information to be sought for rural based planning applications for such matters.

- Without being afforded the opportunity to provide a response to the requested Further Information it is factually incorrect for the Planning Authority to consider the proposed development to be contrary to policy objective IU18 of the Development Plan.
- The Planning Authority have granted a number of dwelling houses in the vicinity of the site with similar ground conditions.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows:

- While it is accepted that the applicant has a housing need there is an excessive number of houses in the immediate vicinity of the site and the proposed development represents ribbon development as well as would exacerbate the existing pattern of overdevelopment in this area. As such the proposed development is considered to be contrary to Policy HOU 42 and HOU 47 of the Development Plan.
- As per Article 30 of the Planning & Development Regulations "*a Planning Authority shall not determine an application for permission until after a period of 5 weeks, beginning on the date of the receipt of an application, has elapsed*". Accordingly, the application could not be determined until after the 12th day of December, 2021, a point in time where the Louth County Development Plan, 2021-2027, was in effect and under which this application was determined.
- The site is located within Rural Policy Zone 1 and having regard to the information provided and the relevant qualifying criteria for this zone, the Planning Authority determined that the application did not meet the qualifying criteria for a dwelling at this location. To permit the proposed development would contravene the rural housing policy objective HOU 41 of the Development Plan.
- The Environmental Section requested further information and that the applicant has not been afforded the opportunity to provide a response to the Further information requested. However, given that the Planning Authority considers that the proposed development represents ribbon development and would exacerbate the existing pattern of ribbon development it was not considered appropriate to

request that the applicant address this item of concern given the associated financial costs of the same.

- The Planning Authority remain of the opinion that the proposed development is contrary to the proper planning and sustainable development as provided for under its Development Plan and therefore should be refused.

6.3. **Observations**

6.3.1. None.

7.0 **Assessment**

7.1. **Overview**

7.1.1. Having regard to the nature of the proposed development sought under this application, relevant planning policy provisions and the issues raised on file, I consider the key planning issues relating to the assessment of this appeal case relate primarily to the Planning Authority's given reasons for refusal. I propose to consider these in the context of my assessment under the following broad headings:

- Principle of the Proposed Development
- Drainage

7.1.2. The matter of 'Appropriate Assessment' also requires examination.

7.1.3. For clarity the applicable Development Plan in place at the time the Board is carrying out its *de novo* assessment of the proposed development sought under this application is the Louth County Development Plan, 2021-2027, and there is no legislative provision that would allow the Board to consider the proposed development under local planning provisions that have expired.

7.2. **Principle of the Proposed Development**

7.2.1. The Louth County Development Plan, 2021-2027, has a presumption against one-off rural housing at rural locations identified as being under strong urban influence and in landscapes deemed to be of high scenic quality except in cases where the applicant can demonstrate they meet the qualifying criteria.

- 7.2.2. The documents accompanying this application indicates that the applicant seeks the rural dwelling house under 2 of the previous Development Plans rural settlement strategy which they contend they are in compliance with. These categories have not been carried through into the Louth County Development Plan, 2021-2027, and rural area of Louth County has been zoned either Rural Policy Zone 1 or Rural Policy Zone 2 with the entirety of rural County Louth identified as being under strong urban influence (Note: Map 3.1 of the Development Plan). Therefore, the applicant in this case is subject to demonstrate that they meet the one of the qualifying criteria set out under Table 3.5 of the Development Plan due to the fact that the subject site forms part of a larger parcel of rural land zoned: '*Rural Policy Zone 1*'. These are identified as being rural areas under strong urban influence and of significant landscape value.
- 7.2.3. Section 3.17.4 of the Development Plan sets out the policy for rural housing in the open countryside. Which it indicates relates to all areas outside of the development boundary of settlements and indicates that there are specific qualifying criteria set out in Tables 3.4 and 3.5 which applicants will be required to demonstrate to the Planning Authority with one of the criteria in the relevant Rural Policy Zone.
- 7.2.4. Table 3.4 of the Development Plan which sets out the Local Housing Need Qualifying Criteria in Rural Policy Zone 1 is applicable.
- 7.2.5. The documentation provided with this application does not support that the appellants circumstance meets any of the qualifying criteria set out under Table 3.4 under which a dwelling house may be considered. The appellant appears to contend that they qualify for a rural dwelling on the basis of having residential connection with this area and a desire as opposed to need for a dwelling in this location. The land on which they seek to build is not in the ownership of their parents and is effectively a speculative site within the rural locality of their family home. The documentation does not in my opinion provide any demonstratable robust social or economic need to live in this particular rural locality nor is the letter setting out that they have not owned a dwelling house or otherwise in the form of a legal affidavit.
- 7.2.6. Based on an examination of the six criteria set out under Table 3.4 of the Development Plan and the documentation provided by the appellant to demonstrate that they qualify for a rural dwelling house at this rural location they have not demonstrated by way of

robust evidence that they satisfy any of these criteria to qualify for a rural dwelling on land zoned Rural Policy Zone 1.

- 7.2.7. I draw the Boards attention to policy objective HOU 41 of the Development Plan which sets out that the Planning Authority will seek to manage the development of rural housing in the open countryside by requiring applicants to demonstrate compliance with the local needs qualifying criteria relative to the rural policy zone, which in this case is Table 3.4.
- 7.2.8. Therefore, to permit a proposed rural dwelling house for the applicant where an applicant has not demonstrated a genuine rural based local need would be contrary to the local settlement strategy as provided for under the Development Plan.
- 7.2.9. In terms of national planning guidance, the site's identified location in an area under strong urban pressure under the Development Plan is consistent with Sustainable Rural Housing Guidelines for Planning Authorities, 2005, which similar identifies the site and its wider rural setting.
- 7.2.10. In addition, I note that the Regional Spatial Economic Strategy – Eastern & Midland Region, 2019-2031, under RPO 4.80 sets out that Local Authorities shall manage growth in rural areas under strong urban influence by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstratable economic or social need to live in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.
- 7.2.11. In relation to locations identified as being under strong urban influence the National Planning Framework, National Policy Objective 19, requires developments like this to demonstrate a functional economic or social requirement for housing need in areas under urban influence. With this being stated as a necessity.
- 7.2.12. It also indicates that such applications shall be also subject to siting as well as design considerations and as considered in the assessment below there are other significant issues in relation to the proposed development sought under this application. Including exacerbation of ribbon development through to further proliferation of car dependent residential developments on un-serviced land remote from services, amenities and other land uses synergistic to residential development.

- 7.2.13. Whilst the applicant appears to have a desire as opposed to a need to live in this rural location this in itself does not override the public good necessity to meet local through to national planning provisions which seek to safeguard such rural locations from the proliferation of what is essentially a type of development that local, regional and national planning provisions seek to channel to appropriate land within settlements where they can be more sustainably absorbed.
- 7.2.14. In keeping with this I note that National Policy Objective 3a of the National Planning Framework seeks to deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements and National Policy Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development as well as at an appropriate scale of provision relative to location.
- 7.2.15. There are settlements within the wider location, including those with infrastructural services such as mains drainage and potable water through to other services as well as amenities, where there is capacity to absorb additional residential development in a sustainable manner than at this location. Section 1.1 of this report sets out the site's proximity to a wide variety of settlement types. At such locations dwellings are less reliant on use of private vehicles which in turn results in a more climate resilient residential development.
- 7.2.16. In addition within the boundaries of such settlements such developments are unlikely to result in significant diminishment of the visual amenities of an area of County Louth whose rural countryside is recognised and provided protection as forming part of a rural landscape of significant landscape value. With this particular areas capacity to absorb any further similar developments arguably being significantly exceeded.
- 7.2.17. Whereas this proposal seeks to exacerbate a type of development that is not supported by the Development Plan, i.e. ribbon development, in an area that is significantly overdeveloped with one-off dwellings to the detriment of the visual amenities as well as the function of precious rural land upon which we all depend.
- 7.2.18. On the matter of ribbon development, Section 13.9.5 of the Development Plan refers to the Sustainable Rural Housing Guidelines defines ribbon development as five or more houses on any side of a given 250m of road frontage. It also states that *"buildings sited back, staggered, or at angles with gaps between them can still represent ribbon development, if they have a common frontage or they are visually*

linked” and “*in cases where a development would create or extend ribbon development, the proposal will not be considered favourably*”. It highlights that ribbon development is a prevalent issue in the County and recognises that it is having a detrimental impact on the character of the rural landscape. It further sets out that in cases where a development would extend ribbon development that this proposal will not be considered favourably.

7.2.19. This proposal would constitute ribbon development as defined by the Sustainable Rural Housing Guidelines. When this is considered against the existing pattern of development as well as the concurrent proposal before the Board under appeal case ABP-312513-22 it would represent a type of development is not favourably considered at local through to national level.

7.2.20. But of further concern in this already visually eroded landscape setting, that forms part of a larger rural landscape that is recognised as being of significant landscape value, it would add further add to its cumulative visual diminishment by one-off dwellings.

7.2.21. Alongside a proposed dwelling which does not seek to be of a subordinate built form and positioning in this landscape to reduce its visual impact and its ability to reinforce the strong proliferation of linear dwellings in this area.

7.2.22. I consider that the proliferation of one-off dwellings in this rolling drumlin landscape is such that it its capacity to absorb further similar developments particularly where there is no demonstrable social or economic has been shown and where little regard is given in the built form and design of the dwelling to reduce the cumulative impact it would have is limited at best.

7.2.23. The proposed development be contrary to Section 13.9.4 of the Development Plan which requires consideration to be given to the landscape to absorb further development and the likelihood of the proposed development to give rise to further erosion of the rural character of the area. It would further be contrary to Policy HOU 42 of the Development Plan. This policy seeks to manage development of rural housing the open countryside by requiring any new dwelling to be appropriately designed and located so it integrates into the local landscape and does not negatively impact or erode the rural character of the area in which it would be located. Comprehensive landscaping may in time help to diminish the proposed dwellings visual intrusion but would not be sufficient to overcome the fact that the proposed

dwelling due to its built form, scale, mass, and materials would add to cumulative visual erosion of the site's rural visual context.

7.2.24. Therefore, to permit the proposed development sought under this application where a genuine demonstratable economic and/or social reason for such a development has not been demonstrated and of a type that exacerbates ribbon development in an already much diminished landscape would be contrary to Policy HOU 41 of the Development Plan. It would also result in a haphazard and unsustainable form of development in an un-serviced area, it would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment that is sensitive to change, and it would give rise to inefficient and unsustainable provision of public services and infrastructure at remote from settlement locations. Further, it would also undermine the settlement strategy set out in the Development Plan that seeks to direct this type of development to appropriately zoned land within settlements. For these reasons the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

7.2.25. Based on the above considerations I generally concur with the Planning Authority's first and second reasons for refusal. I also note that the suitability of the design is a new issue and arguably it is one that if the proposed development was otherwise deemed to be acceptable and in accordance with the proper planning as well as sustainable development could be dealt with by way of further information or appropriately worded condition.

7.3. Drainage

7.3.1. The third reason given for refusal relates to the Planning Authority considering that the proposed development has failed to demonstrate that the ground conditions are adequately suitable to accommodate the required secondary waste water treatment system and polishing filter in a manner compliant with the EPA Code of Practice, 2021. For this reason, the Planning Authority considered that the proposed development would be contrary to Policy IU 18 of the Development Plan and would be prejudicial to public health.

7.3.2. I note that Policy IU 18 of the Development Plan is an overarching policy objective that seeks that private waste water treatment systems comply with the recommendations contained within the EPA Code of Practice Domestic Waste Water Treatment

Systems, Population Equivalent ≤ 10 (2021) and it is set down under Section 10.2.3 of the Development Plan which deals with the matter of on-site waste water treatment systems.

7.3.3. In addition to Policy Objective IU 18, Section 10.2.3 of the Development Plan under Policy Objective IU 16 states: *“to require that proper supervision, installation and commissioning of on-site wastewater treatment systems by requiring site characterisation procedures and geotechnical assessment be carried out by competent professionally indemnified and suitably qualified persons”* and Policy Objective IU 17 states: *“to require that the construction and installation of all wastewater treatment systems are supervised and certified by a suitably qualified competent person as fit for the intended purpose and comply with the Councils requirements”*.

7.3.4. The Planning Authority’s Environmental Section report, dated the 23rd day of November, 2021, concluded with a request for further information on the following matters:

- 1) It seeks that a description of chemical and microbiological composition of the ground water at this location be provided as well as untreated samples taken within 150m of the proposed percolation.
- 2) An assessment of impacts of the water discharge on the chemical and microbial quality of the ground water.
- 3) Sought name of person who will supervise the installation of the waste water treatment system and percolation area together with clarification of their qualifications and expertise.

7.3.5. The Planning Authority due to the substantive other planning concerns that arose from the proposed development. In summary, the lack of demonstration of compliance with the rural settlement strategy for a one-rural dwelling at this location and the visual amenity including ribbon development issues that would arise from the proposed development, if permitted. Therefore, considered it would result in unnecessary financial costs to the applicant given that the issues of concerns could not in their view be overcome and were in their own right sufficient basis to refuse permission to request additional information sought by the Environment Section. As requesting this

information would give rise to unnecessary financial costs to be burdened by the applicant.

- 7.3.6. Notwithstanding, the appellant argues that they should have been provided with an opportunity to address these concerns. Particularly given that there are numerous dwelling houses in the immediate vicinity of the site with similar site conditions which they contend are successfully served by waste water treatment systems. They therefore contend that the Planning Authority's third reason for refusal is incorrect in the absence of a further information request being made and should not be included.
- 7.3.7. To permit the proposed development in the absence of demonstrating that the proposed development would not give rise to ground water contamination or where there is insufficient documentation to demonstrate the proposed development would not be prejudicial to public health would be contrary to Policy Objective IU 18 of the Development Plan.
- 7.3.8. This a reasonable concern giving the pattern of development in the immediate vicinity of the site and in its neighbouring setting where there is a significant proliferation of one-off dwellings dependent upon proprietary waste water treatment systems as well as potable water by proprietary wells. Alongside this the agricultural land in the setting of the site is characterised by intensive agricultural activities.
- 7.3.9. This will be the case of the proposed development, if it were permitted, and it is reasonable and appropriate that it demonstrate that it would not give rise to any potential risk of contamination of ground water or otherwise be prejudicial to public health and that the waste water treatment system is provided in a manner that meets the required EPA Code of Practice standards.
- 7.3.10. This application is not accompanied by any demonstration that a safe and sustainable water supply can be provided to serve the proposed dwelling sought under this application and its future occupants. Nor is there sufficient information that show if the proposed development were to be permitted that allays concerns that there would be no potential risk of it being prejudicial to public health or that it would not give rise to diminishment of ground water quality in this area.
- 7.3.11. Further, the Site Characterisation Form clearly sets out concerns with regards to ground water in this area. This is particularly evident in Section 2 which sets out the Aquifer Category as Poor; the Vulnerability as being Extreme through to the Ground

Protection Response being 'R21'. That the ground flow direction is southerly (Note: the site is adjoined by a rural one-off dwelling house to the south and the concurrent application that relates to the adjoining site to the east appears to be on slightly lower ground levels with a bored well indicated in its rear open space amenity in proximity to the proposed driveway).

7.3.12. I also note that the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of Environment, Heritage and Local Government 2005 which recommend, in un-serviced rural areas, advocates avoidance of sites where it is inherently difficult to provide and maintain wastewater treatment and disposal facilities. I am not satisfied on the basis of the information on file, that the impact of the proposed development when taken in conjunction with existing wastewater treatment systems in the area, would not give rise to a risk of groundwater pollution in an area highly dependent on private wells for their potable water supply. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

7.3.13. For clarity, I also concur with the Planning Authority in that a request for further information on the items outlined as a concern by their Environmental Section would have conflicted with the Development Management Guidelines for Planning Authorities, June, 2007, as applicants should not have to suffer unnecessary delay or expense if refusal is likely. This was clearly the circumstance in this case.

7.4. **Appropriate Assessment**

7.4.1. Having regard to the nature and scale of the proposed development, I am satisfied that no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

8.1. I recommend that permission be **refused** for the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the location of the site within an 'Area Under Strong Urban Influence' as identified in the Sustainable Rural Housing Guidelines for Planning Authorities, issued by the Department of the Environment, Heritage and Local Government in April 2005, and in the Louth County Development Plan, 2021-2027, by way of its Rural Policy Zone 1 – 'Area under strong urban influence and of significant landscape value' where housing is restricted to persons demonstrating local need in accordance with the Table 3.4, it is considered that the applicant does not come within the scope of the housing need qualifying criteria for a rural one-off dwelling house at this location.

For this reason, the proposed development is inconsistent with Policy Objective HOU 41 of the said Development Plan which seeks to manage the development of rural housing in the open countryside by requiring applicants to demonstrate compliance with the local needs qualifying criteria for the rural policy zone applicable to the site in which the rural dwelling house is proposed.

In addition, having regard to National Policy Objective 19 of the National Planning Framework (February 2018) which, for rural areas under urban influence, seeks to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements, it is considered that the applicant has not demonstrated compliance with National Policy Objective 19.

It is therefore considered that the proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural car dependent development in an area where there is a strong proliferation of such developments.

It would also militate against the preservation of a rural environment that is afforded protection as an area of high scenic quality where developments, including backland developments, are discouraged. In such rural settings where there is no demonstrable economic or social need demonstrated such residential developments are directed to where they can be more sustainably accommodated on serviced lands within settlements making more efficient use

of provision of public services and infrastructure and giving rise to more climate resilient sustainable forms of residential development.

The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Notwithstanding the proposal to use a proprietary wastewater treatment system on site, the Board had regard to the presence of the water table within the trial hole at a shallow level on site, to the proliferation of domestic wastewater treatment systems in this rural area, the fact that that groundwater in the area is classified as highly vulnerable and that the proposed and existing dwellings in the area are highly dependent on groundwater as a source of water supply, and to the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of Environment, Heritage and Local Government 2005 which recommend, in un-sewered rural areas, avoiding sites where it is inherently difficult to provide and maintain wastewater treatment and disposal facilities. The Board could not be satisfied, on the basis of the information on the file, that the impact of the proposed development in conjunction with existing wastewater treatment systems in the area would not give rise to a risk of groundwater pollution. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

19th day of April, 2022.